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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,006

03/16/2004

Yoh Masuyama

250448US2

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22850

7590

08/19/2009

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ALEXANDRIA, VA 22314

EXAMINER

GAMI, TEJAL

ART UNIT

PAPER NUMBER

2121

NOTIFICATION DATE

DELIVERY MODE

08/19/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/801,006	Applicant(s) MASUYAMA ET AL.	
	Examiner TEJAL J. GAMI	Art Unit 2121	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.

/Albert DeCady/
 Supervisory Patent Examiner, Art Unit 2121

Continuation of 11. does NOT place the application in condition for allowance because: The claims as written are anticipated by the prior art cited in the previous office action. All the limitations as argued are met and addressed in the previous office action, dated 04/29/2009. Therefore, applicant's arguments are deemed not persuasive.

Continuation of 13. In response to Applicant's arguments the following are the Examiner's observations in regard thereto:

Applicant Argues: The Office Action rejects Claim 18 under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph, asserting that the claim "overlaps two different statutory classes of invention." Applicants respectfully traverse this rejection. Claim 18, therefore, is directed to a method or process that is tied to a particular apparatus (an image forming apparatus) as required by *In re Bilski*, and does not claim a system or apparatus and a method for using it, which is the case in both *IPXL Holdings v. Amazon* and *Ex parte Lyell*.

Examiner Responds: Claim 18 is rejected as a single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. (*IPXL Holdings v. Amazon.com, Inc.*, 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005)); *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990) (claim directed to an automatic transmission workstand and the method of using it, held ambiguous and properly rejected under 35 U.S.C. 112, second paragraph.) Claim 18 is rejected under 35 U.S.C. 101 based on the theory that the claim is directed to neither a "process" nor a "machine," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only.

Applicant Argues: Ogura merely describes a startup operation performed at each image forming apparatus, and is in no way related to notifying a display information controlling unit of a display to be presented on a display unit to indicate ongoing initialization of the application at the external apparatus until the application becomes operational, as required by independent Claim 1. More specifically, it is unclear how this cited portion of Ogura relates to notifying a display controller of a display to be presented, whatever, much less that such a display indicates an ongoing initialization of an application at an external apparatus.

Examiner Responds: See prior art Paragraph [0275] where the relaying unit (e.g., CPU) notifying display information controlling unit of a display (e.g., operation display unit) that is to be presented on said display unit (e.g., text display) to indicate ongoing initialization of the application (e.g., user-request input mode; indicating the necessary request by using the personal interface) at the external apparatus (e.g., other image-forming devices; central management device) until the application becomes operational when an input is received from a user attempting to use the application (e.g., user-request input mode; indicating the necessary request by using the personal interface). Under such considerations, the prior art anticipates the claims as written.

Applicant Argues: The ID code in Ogura does not correspond to an ID of the application in the software, nor is the ID registered during the initialization of the application", as required by independent Claim 1.

Examiner Responds: Applicant's Specification Page 21, Line 14 to Page 22, Line 3 and Figure 4 discloses the external application registers its ID in the SCS 38. In addition to limitation teachings presented in the previous office action, see prior art Figure 4 for anticipation of the same disclosure.

Applicant's arguments have been fully considered but they are not deemed persuasive. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of Claims-Broadest Reasonable Interpretation.